



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2022-0135]

RIN 1625-AA08

Special Local Regulation: Luminsea Offshore Powerboat Race; Atlantic Ocean, Miami Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a special local regulation (SLR) on certain navigable waters of the Atlantic Ocean, offshore of Miami Beach, FL, in connection with the Luminsea Offshore Powerboat Race. The race will include approximately 55 offshore powerboats, ranging from 30 to 50 feet in length. The SLR is needed to protect personnel, vessels, and the marine environment from potential hazards associated with the high-speed powerboat race. The special local regulation establishes a race area where all persons and vessels, except those persons and vessels who are participating in the race, will be prohibited from entering, transiting through, anchoring in, or remaining within unless authorized by the Captain of the Port (COTP) Miami or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE **15** DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2022-0135 using the Federal Decision Making Portal at <https://www.regulations.gov>. See the

“Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Omar Beceiro, Sector Miami Waterways Management Division, U.S. Coast Guard at 305-535-4317 or Omar.Beceiro@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

On February 15, 2022, Cigarette Racing Team, LLC. notified the Coast Guard they would be sponsoring an offshore powerboat race on May 6, 2022 from 8 a.m. to 6 p.m. and May 7, 2022 from 8 a.m. to 6 p.m. The race would take place in the Atlantic Ocean, offshore of Miami Beach, FL and involve approximately 55 powerboats ranging from 30 to 50 feet in length. Approximately 500 spectator crafts are anticipated to attend the event.

The COTP Miami has determined potential hazards associated with the high-speed boat race would be a safety concern for participants, participant vessels, and general public.

The purpose of this rulemaking is to protect event participants, spectators, and vessels on certain navigable waters of the Atlantic Ocean, offshore of Miami Beach, FL before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

The Coast Guard is issuing this notice of proposed rulemaking (NPRM) with a 15-day prior notice and opportunity to comment pursuant to section (b)(3) of the

Administrative Procedure Act (APA) (5 U.S.C. 553). This provision authorizes an agency to publish a rule in less than 30 days before its effective date for “good cause found and published with the rule.” Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for publishing this NPRM with a 15-day comment period because the Coast Guard was given short notice from the event sponsor, and this not a recurring event that would be listed in the existing annual marine event table as outlined in 33 CFR 100.702, Table 1. Therefore, it is impracticable to provide a 30-day comment period because we must establish this safety zone by May 6, 2022. A 15-day comment period would allow the Coast Guard to provide for public notice and comment, but also update the proposed regulation soon enough that the length of the notice and comment period does not compromise safety.

III. Discussion of Proposed Rule

The COTP proposes to establish an SLR from 8 a.m. until 6 p.m., on May 6, 2022 and May 7, 2022. The safety zone would cover certain navigable waters of the Atlantic Ocean beginning approximately 0.5 miles north of Government Cut and continuing north approximately 3.5 miles. The SLR extends approximately 2.5 miles offshore.

The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during the event. The proposed regulation would prohibit all persons and vessels, except those persons and vessels participating in the race, from entering, transiting through, anchoring in, or remaining within the area unless authorized by the COTP Miami or a designated representative. Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the race area by contacting the COTP Miami by telephone at (305) 535-4300, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the race area is granted by the COTP Miami or a designated representative, all persons and vessels receiving such authorization must comply with the

instructions of the COTP Miami or a designated representative. The Coast Guard would provide notice of the special local regulation by a Broadcast Notice to Mariners, and on-scene designated representatives.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the following reasons: (1) the proposed special local regulation will be enforced for only 10 hours per day; a total of 20 hours; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the regulated area, without authorization from the COTP Miami or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the regulated area during the enforcement period if authorized by the COTP Miami or a designated representative; and (4) the Coast Guard will provide advance notification of the special local regulation to the local maritime community through the Local Notice to Mariners and Broadcast Notice to Mariners via VHF-FM.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit through the safety zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made

a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves an SLR lasting approximately 10 hours on two separate days that will prohibit entry of persons or vessels during the Luminsea Offshore Powerboat Race. This action is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2022-0135 in the search box and click "Search." Next, look for this document in the "Search Results" column, and click on it.

Then click on the “Comment option.” If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100 - SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05-1

2. Add § 100.T799-0135 to read as follows:

§ 100. T799-0135 Special Local Regulation: Luminsea Offshore Powerboat

Race; Atlantic Ocean, Miami Beach, FL.

(a) *Location.* The following regulated area is established as a SLR in the Atlantic Ocean; Miami Beach, FL. Coordinates are based on North American Datum 1983.

(1) *Regulated area.* All waters of the Atlantic Ocean encompassed within the following points. Commence at Point A in position 25° 46' 11" N, 080° 07' 06" W; thence northwest to Point B in position 25° 46' 56" N, 080° 07' 41" W; thence north-northeast to Point C in position 25° 48' 44" N, 080° 07' 17" W; thence northeast to Point D in position 25° 49' 10" N, 080° 05' 58" W; thence southeast to Point E in position 25° 48' 40" N, 080° 05' 04" W; thence southwest to Point A.

(2) [Reserved]

(b) *Definitions.* (1) The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, State, and Local officers designated by or assisting the COTP Miami in the enforcement of the regulated areas.

(2) The term “Patrol Commander” means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the respective Coast Guard Sector Commander to enforce these regulations.

(3) The term “spectators” means all persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(c) *Regulations.* (1) All non-participant vessels or persons are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the COTP or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the COTP Miami by telephone at (305) 535-4472 or a designated representative via VHF-FM radio on channel 16, to request authorization. If authorization is granted, all persons and vessels receiving such authorization must

comply with the instructions of the COTP Miami or a designated representative.

(3) The Coast Guard will provide notice of the regulated area through Broadcast Notice to Mariners via VHF-FM channel 16, on-scene designated representatives, and Local Notice to Mariners.

(d) *Enforcement period.* This rule will be enforced from 8 a.m. until 6 p.m., on May 6, 2022 and May 7, 2022.

Dated: March 21, 2022.

J. F. Burdian,

Captain, U.S. Coast Guard,

Captain of the Port Miami.

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